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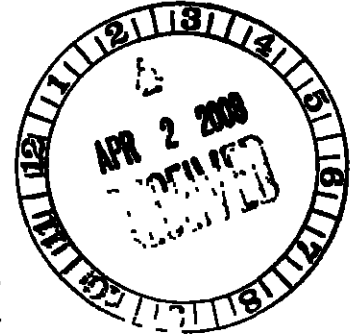
March 29, 2008

Hon. Anne Quinlan
Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

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Re: Consolidated Rail Corp. - Abandonment Exemption, Jersey City, NJ, AB 167 (Sub-no. 1189X) and related proceedings

Dear Ms. Quinlan:

This letter is on behalf of the Jersey City Landmarks Conservancy. A 501(c)(3) organization formed in 1999 to preserve, protect and promote Jersey City's architectural and cultural heritage.

Our preservation campaigns include the Hudson and Manhattan Railroad Powerhouse, Reservoir #3, the Bergen Arches, St. John's Episcopal Church, the 6th Street Embankment (aka, the Harsimus Branch), Whitlock Cordage, Zoning and Teardowns, the Warehouse Historic District and Cobblestone Streets. Railroads have been a significant factor in the evolution of Jersey City, hence many of our campaigns revolve around railroad corridors and related structures. Of particular interest is the Harsimus Branch known locally as the 6th Street Embankment.

It is our understanding that Consolidated Rail Corporation (Conrail) intends to file, on or about April 7, a "notice of exemption" under this Board's fast track "class exemption" procedures (49 C.F.R. 1152.50) to obtain abandonment authorization for the Harsimus Branch and for the Hudson Street Industrial Track, both located in Jersey City. These comments, objections, and protests are directed at Conrail's proposed licensing action by this Board in respect to the Harsimus Branch.

Please include us as a party to this proceeding so that we may receive timely service of all pleadings and decisions.

Until compelled to acknowledge this Board's jurisdiction due to the petition for declaratory judgment proceeding (Finance Docket 34818) filed by City of Jersey City, the Harsimus Embankment Preservation Coalition, Rails to Trails Conservancy, and

Assemblyman Manzo, Conrail had engaged in an illegal de facto abandonment of the Harsimus Branch. Conrail tore out the bridges and track from the Harsimus Embankment without this Board's authorization and sold the whole Embankment, without retention of any railroad operating rights, to a real estate developer (Mr. Steven Hyman). The sale was expressly striking since it was in the face of interest in the property expressed by the City. Mr. Hyman has sued Jersey City and some of its officials personally to force them to grant his companies permits to complete demolition of the Embankment and to construct in its place townhouses. Alternatively he has recently proposed huge new residential towers on top of the Embankment after hollowing it out for parking. Conrail has indicated it intends to cooperate with Mr. Hyman to this end. It is our understanding that Conrail and Mr. Hyman are planning to develop additional rail property owned by Conrail together.

Conrail's illegal actions in respect to the Embankment should not be countenanced. The Embankment is eligible for listing on the National Register of Historic Places and is also designated as historic under local and state law. In addition, the Embankment is surrounded on both the north and south sides by National Historic Districts. Destruction of the Embankment not only irreparably adversely impacts the Embankment but also the adjoining historic districts. Conrail's actions and proposed actions significantly adversely affect the environment.

Rather than demolishing the Embankment as proposed by Conrail and its developer agent, the Embankment should be preserved as a park and trail, or for an ecologically sensitive rail alternative to relieve Jersey City's growing surface transportation congestion. As a park and trail facility, the Embankment not only would serve local and regional residents but also would link the East Coast Greenway to Manhattan from Philadelphia. Because of the Embankment's width, both a rail transportation system and trail use could occur simultaneously.

Conrail's sale of the property to Mr. Hyman's companies in 2006 was unlawful in that Conrail did not have abandonment authority and sold the property without retaining any ability to operate a railroad without STB authority as well. Conrail's unlawful actions should not be rewarded with the kind of de facto fast track retroactive authorization from this agency that Conrail seeks here for its unlawful sale of the Embankment to Mr. Hyman's companies. By rushing through with its proposed

"exemption," Conrail hopes to insulate its unlawful actions from the remedies that it knows would otherwise be applicable under federal and state laws.

We briefly summarize below some of our salient points and objections.

Compliance with Historic Preservation Act is necessary. Authorizing an abandonment in the circumstances here will significantly adversely impact not only the Embankment but also the two National Historic Districts, especially in light of the anticipatory demolition (removal of bridges, sale to Hyman interest, litigation by Hyman interests with assistance from Conrail to compel the City to permit demolition and townhouse conversion) already under way. The Board may not take such action without first complying with section 106 of the Historic Preservation Act (16 U.S.C. 470f) and without compliance with the additional requirements established by section 110 (in particular, 16 U.S.C. 470h-2(k)) for situations involving anticipatory demolitions. Section 470h-2(k) is particularly relevant here. That statute bars STB from authorizing any abandonment here because Conrail has intentionally significantly adversely affected an historic property in avoidance of the requirements of 470f of the National Historic Preservation Act. In such cases, STB may not authorize abandonment unless it first consults the Advisory Council on Historic Preservation and only thereafter determines that the circumstances justify the abandonment authorization despite the adverse effect created or permitted by Conrail.

Dismiss Conrail notice of exemption. Conrail's use of the fast track notice of exemption procedures is inappropriate in the controversial circumstances here. This Board has previously indicated that use of "class" exemption procedures is intended for instances that are "non-controversial and unopposed." The Board has dismissed notices of exemption in situations involving controversy, e.g., Greenville County Economic Development Corporation - Discontinuance of Service Exemption - in Greenville County, SC, STB AB 490X, served Jan. 29, 2004. In light of the controversial nature of Conrail's cavalier disregard of this Board's jurisdiction, willful imposition of a maximal adverse impact on the Embankment, and unlawful, unauthorized transfer of the historic property to the Hyman interests in disregard of the City's interest, Conrail's proposed exempt abandonment action here is nothing if not

controversial and opposed. This Board should dismiss Conrail's notice, and order the railroad instead to proceed by petition for exemption or by application.

Order reconveyance of property by Hyman interests. One of the most objectionable features of Conrail's tactics is its earnest attempt to ensure the destruction of the Embankment through its insistence on conveying that property to the Hyman interests for demolition and non-rail uses. In past cases involving sales of lines to non-rail users without prior authorization, this Board has ordered reconveyance of the properties. The Land Conservancy of Seattle and King County - Acquisition Exemption - in King County, WA, STB Finance Docket 33389, served Sept. 26, 1997. To protect the integrity of its own processes, this Board should assert jurisdiction over the Hyman interests, and order immediate reconveyance of all real estate and fixtures which Conrail deeded to the Hyman interests before further processing of any abandonment application by or on behalf of Conrail.

Alternatively, if the Hyman interests continue to hold the property, then they must be regarded as holding it themselves as common carriers, subject to a common carrier obligation. They must be barred from further actions aiming at destruction of the Embankment until they themselves receive abandonment authorization from this Board.

Full EIS. We acknowledge that under this Board's environmental regulations, the Board "normally" prepares only an "environmental assessment" (EA) to inform itself concerning the impact of a proposed abandonment. 49 C.F.R. 1105.6(b)(3)&(7). That EA is issued after the Board publishes a notice authorizing abandonment. This kind of foreshortened review is clearly not appropriate or lawful here. This Board's regulations provide that a full environmental impact statement (EIS) may be required in an individual proceeding. 49 C.F.R. 1105.6(d). Indeed, a full EIS is ordinarily required where an action may "significantly" impact the environment. Here the action proposed by Conrail will significantly impact the environment. The term "significantly" is defined in 40 C.F.R. 1508.27. Under section 1508.27(b)(8), a key variable in determining significance of impact is whether the action may adversely affect historic districts and structures listed in or eligible for the National Register. Here the proposed action will result in demolition of the Embankment and severely adversely affects

two adjoining historic districts. A clearer showing of significance of impact is hard to imagine. In The Baltimore and Ohio Railroad Co. - Abandonment and Discontinuance of Service - in Montgomery County, Md. and the District of Columbia, AB 19 (Sub-no. 112), served May 21, 1986, this Board's predecessor determined that a proposed abandonment had "significant" impacts within the meaning of the 40 C.F.R. 1508.27(b), and ordered an EIS. The impacts here are at least as significant, and in a similar major metropolitan setting. We have already underscored the serious adverse impacts on historic properties and districts, and the further adverse impact of precluding public use of the historic assets in a fashion that would maintain the assets. But Conrail's proposed action will also adversely affect public health and safety in the event of demolition as envisioned by the applicant, and is extremely controversial. As in the Baltimore and Ohio case, Conrail's proposal will significantly impact the environment, and an EIS is necessary pursuant to 40 C.F.R. 1508.27(b) (1), (2), (3), (4) and (7). Preparation of a full EIS is also appropriate in light of the statutory requirement for consultation with the Advisory Council on Historic Preservation pursuant to 16 U.S.C. 470h-2(k).

We reserve the right to provide further and more detailed environmental comments in response to Conrail's brief, totally inadequate, misleading, and precipitously prepared "environmental report" (ER) and historic report (HR) which the railroad has evidently recently filed with this agency. That ER/HR fails to discuss Conrail's anticipatory demolition and relevant adverse environmental and historic impacts.

Public use conditions. Conrail has publicly refused to negotiate public use of the Embankment. However, in light of the suitability of the Embankment for public use (e.g., as a trail, park and greenway, or as light rail and trail), if this Board despite the comments above authorizes an abandonment, the abandonment should be conditioned upon Conrail retaining ownership in the Embankment and taking no action to sell, to transfer or to disturb the Embankment for 180 days from the effective date of any abandonment authorization to permit public agencies to exercise eminent domain authority. 49 U.S.C. 10905; 49 C.F.R. 1152.28.

By the signature below, we certify service by U.S. Mail, postage prepaid, first class on Mr. John K. Enright, Associate General Counsel, Conrail, 1000 Howard Boulevard, 4th Floor, Mt. Laurel, NJ 08054.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael D Selender". The signature is fluid and cursive, with the first name "Michael" and last name "Selender" clearly legible. A horizontal line is drawn beneath the signature.

Michael D Selender,
Vice President
Tel: 201-484-7277

For:
The Jersey City Landmarks
Conservancy

Address:
P.O. Box68
Jersey City, NJ 07303-0068

Tel: 201-332-4704

PRESERVATION CAMPAIGNS

The Landmarks Conservancy is actively campaigning to preserve the following historic sites:

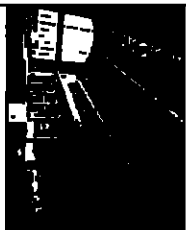


Hudson & Manhattan Railroad Powerhouse

The Powerhouse is the last remaining industrial monument on the Jersey City waterfront. Designed by

John Oakman and erected

1906-08, the Powerhouse once provided energy to the entire Hudson & Manhattan Railroad subway system ("The Tubes"), now known as PATH. The



Powerhouse Interior © Leon Yabl

Landmarks Conservancy campaign for the Powerhouse culminated with the building's 2001 inclusion on the National Register of Historic Places. Abandoned as a power station since 1929, the Powerhouse is now being considered for adaptive reuse.

Bergen Arches

From 1906 to the Erie Railroad Company drove 5,000 feet through Palisades rock, from Palisade Avenue on the east, to Tonnele Avenue on the west, in order to bring passenger service to the Jersey City waterfront. The "Erie Cut," as much as 85-feet deep, was punctuated by the Bergen Arches, a series of concrete bridges that supported cross streets overhead. Today the site has returned to nature, with moss and vines covering the bridges and cliff face. It is a serene, pastoral world apart from the busy avenues that cross it.



Bergen Arches © Elaine Loe

Cobblestone Streets

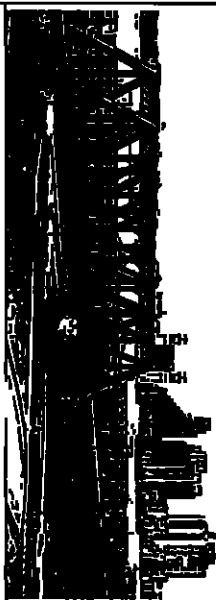
There are only five cobblestone streets left in Jersey City, a city once completely paved with cobbles. The Landmarks Conservancy was instrumental in saving

Holland Street, a cobblestone carriage road that slopes down the Palisades between Palisade Avenue and Patterson Plank Road.



The Jersey City Landmarks Conservancy

is a non-profit 501 (c)(3) preservation organization that was formed in 2000 by concerned citizens, historians, architects, artists, and educators, all of whom had been actively involved with the campaign to save the Hudson & Manhattan Railroad Powerhouse. Founding members, alarmed by rampant development, came together to preserve, protect, and promote the irreplaceable historic resources of Jersey City.



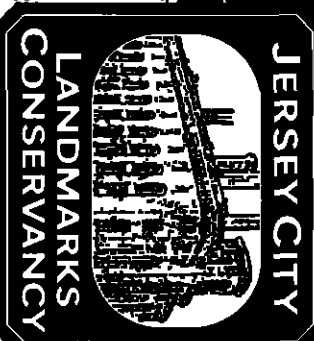
Pacific Avenue Bridge and Municipal Center © Leon Yabl



White Horse Carriage © Leon Yabl

The Conservancy works to preserve endangered historic landmarks, conducts historical walking and bus tours, sponsors historical exhibitions, and publishes preservation-related literature. Conservancy members provide historic preservation advice, consultancy, and education, often appearing before organizations, government bodies, and educational institutions.

The Landmarks Conservancy develops working partnerships with other non-profit organizations, including preservation societies and coalitions, museums, artists groups, and neighborhood associations.



www.jcitylandmarks.org

Photos: 120-1200 1: SM Powerhouse, Holland Street and Reserve 3 © Leon Yabl

Jersey City Water Works (Reservoir 3)

One of the last of its kind in the United States,

Reservoir 3 on Summit Avenue was built between



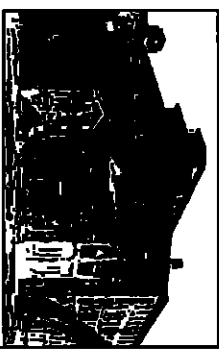
1851-74 as part of an extensive water works system that provided fresh drinking water to an expanding Jersey City and a busy immigration station known as Ellis Island. The design of the structure's massive perimeter walls indicate influences of the

Egyptian-Renaissance Style while its two pump houses are characterized by Romanesque-Renaissance features. Reservoir 3, emptied and unused, is now home to an emerging ecosystem, wetlands, and wildlife sanctuary.

Whitlock Cordage

The Whitlock Cordage, originally part of the Passaic Zinc Works, is an intact late-19th century industrial complex that thrived on the banks of the Morris Canal, a man-made waterway used for the delivery of

coal, zinc, grain, and other goods between Pennsylvania and the Jersey City waterfront. Whitlock Cordage, which stands in the historic Lafayette neighborhood, once manufactured what many considered to be the world's finest and strongest rope. The complex, surrounded by cobblestone courtyards and the Rev. Errol F. Webb Park, is now slated for housing and commercial space.



Whitlock Cordage © Leon Tosi



Jersey City Water Works © Leon Tosi

The Landmarks Conservancy also raises awareness about other unique historic buildings, sites, objects, and districts in Jersey City that are threatened with neglect, deterioration, and/or demolition.

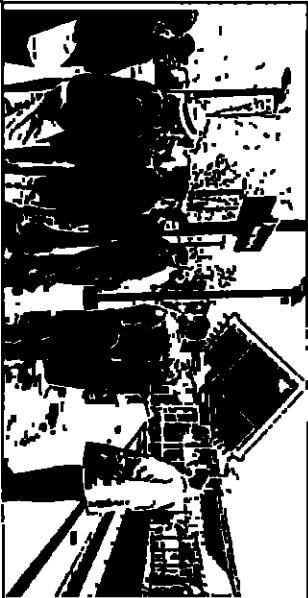
- St. John's Episcopal Church
- Van Wagenen House
- Jackson Avenue Station
- NJ Transit Airshafts
- Stained Glass Masterworks
- Pacific Avenue Bridge
- Old Growth Trees
- Historic Public Schools
- Remnants of the Morris Canal

TOURS & EVENTS

The Landmarks Conservancy sponsors historical festivals, lectures, slide and video presentations, clean-ups, and other preservation-related activities throughout Jersey City, including the following historical tours:

- Hudson-Bergen Light Rail Historical Tour
- Warehouse Historic District Walking Tour
- Bergen Square Walking Tour
- Washington Village Walking Tour
- Reservoir 3 Nature Walk
- Bergen Arches Greenway Tour
- Lafayette History Festival & Tour

In addition to regular tours and events, the Landmarks Conservancy celebrates National Historic Preservation Week every May with special tours, festivals, talks, demonstrations, and an annual Preservation Awards ceremony when it recognizes outstanding examples of restoration, preservation, scholarship, and stewardship.



Hudson-Bergen Light Rail Historical Tour © Leon Tosi

CONTRIBUTIONS & VOLUNTEER INFORMATION

The Jersey City Landmarks Conservancy is a non-profit 501 (c)(3) volunteer preservation organization. Please support our efforts by making a tax-deductible donation, which will help us to:

- Carry out preservation campaigns
- Conduct historical tours
- Present historical slide lectures and videos
- Sponsor historical exhibitions and educational displays
- Publish historical guides, tours, maps, and calendars
- Develop and maintain our official web site, email list, and newsletter
- Offset operating costs

Make a check or money order payable to
Jersey City Landmarks Conservancy

☐ \$25 ☐ \$50 ☐ \$100 ☐ OTHER _____

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MAIL TO: Jersey City Landmarks Conservancy
P.O. Box 68
Jersey City, NJ 07310-0068

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I would like to become a Landmarks Conservancy volunteer. I am interested in assisting with:

- historical research
- office/clerical duties
- outreach/public relations
- tours
- publications
- web design
- legal services
- other _____

Visit the Jersey City Landmarks Conservancy web site at

www.jclandmarks.org

111.201.420.1885

E-MAIL: jclandmarks@earthlink.net